



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,131	11/20/2003	Julian Ross	ROSS 2864000	6992
21909	7590	12/21/2007		
CARR LLP 670 FOUNDERS SQUARE 900 JACKSON STREET DALLAS, TX 75202			EXAMINER JOYNER, KEVIN	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 12/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,131	<b>Applicant(s)</b> ROSS, JULIAN	
	<b>Examiner</b> Kevin C. Joyner	<b>Art Unit</b> 1797	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-16,18-20,22-25 and 27-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-16,18-20,22-25 and 27-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## FINAL ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1-4, 6-7, 9-13, 15-16, 18-20, 22, 24-25, 27-30, 34-36 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (U.S. Publication No. 2005/0022810) in view of Koslow (U.S. Patent No. 4,548,730).

Moore et al., teaches an apparatus for generating oxygen with a vessel for an aqueous oxygen generating solution and a humidifier. The apparatus includes means for fluid communication between the oxygen generation vessel and the humidifier. Oxygen is generated with sodium percarbonate mixed with water and a catalyst such as manganese dioxide. See paragraphs 17, 26, 28 and 32. Moore does not appear to disclose that the vessel contains a heat absorbing salt. Koslow discloses an apparatus

for generating oxygen with a vessel for an aqueous oxygen generating solution (column 1, lines 6-11). The reference continues to disclose a vessel containing a heat absorbing hydrated salt that is a Sodium based compound (concerning claims 40-42; column 8, lines 40-50) in order to absorb excessive heat released upon the reaction of the oxygen generating material. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a heat absorbing salt in the apparatus of Moore in order to absorb excessive heat from the oxygen generating material as exemplified by Koslow.

2. Claims 5, 14, 23, 31-33, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (U.S. Publication No. 2005/0022810) as applied to claims 1-4, 6-7, 9-13, 15-16, 18-20, 22, 24-25 and 27-30 above, and further in view of Ueno U.S. patent No. 4,683,130.

Ueno clearly teaches recognized application of sodium carbonate in conjunction with a catalyst such as manganese dioxide in a chemical reaction for oxygen generation. See particularly column 2, lines 5-45.

It would have been obvious to one of ordinary skill in the art to employ any recognized means for oxygen generation in the system of Moore et al., such as that including sodium carbonate as taught in Ueno which acts cooperatively with the same catalyst taught by Moore et al.

***Terminal Disclaimer***

The terminal disclaimer filed on 2/21/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted to any of U.S. patent applications 11/158,377 or 11/158,618 or 11/158,648 or 11/158,696 or 11/158,865 or 11/158,867 or 11/158,958 or 11/158,993 or 11/159,079 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-7, 9-16, 18-20, 22-25 and 27-33 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments, see pages 9 and 10, filed October 26, 2007, with respect to claims 5, 14, 23 and 31-33 have been fully considered and are persuasive. The rejection of 35 U.S.C 112, first paragraph has been withdrawn.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Joyner whose telephone number is (571) 272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER

Application/Control Number:  
10/718,131  
Art Unit: 1797

Page 6

KCJ